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68TH CONGRESS }
2d Session }

SENATE

{ REPORT
No. 1013

TO REPEAL ACT PROVIDING FOR CHANGE OF ENTRY

FEBRUARY 3 (calendar day, FEBRUARY 5), 1925.—Ordered to be printed

Mr. LADD, from the Committee on Public Lands and Surveys, submitted the following

REPORT

[To accompany S. 3839]

The Committee on Public Lands and Surveys, to whom was referred the bill (S. 3839), to repeal the act approved January 27, 1922, providing for change of entry, and for other purposes, having considered the same, reports thereon favorably with the following amendment, and recommends it do pass.

On page 1, line 7, after the word "of" strike out the remainder of the bill and insert in lieu thereof the following:

this act, or any claims of which notice is filed without 60 days from the approval of this act, upon which applications are presented within one year from the date of approval of this act, may be perfected and patents issue therefor the same as if this act had not been passed: *Provided further*, That when the selection in exchange fails for no fault on the part of the selector another selection in exchange may be made if filed within one year from notice to the selector of the rejection of the selection.

The recommendations of the Interior Department are indicated by the reports submitted by them as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 3, 1925.

Hon. E. F. LADD,
*Chairman Committee on Public Lands and Surveys,
United States Senate.*

MY DEAR SENATOR LADD: I have the honor to inclose herewith for your consideration, and for introduction if you deem proper, a bill to repeal the act of Congress approved January 27, 1922 (42 Stat. 359), entitled "An act to amend section 2372 of the Revised Statutes."

The act in question was reported upon favorably by this department in a letter to the Senate Committee on Public Lands May 19, 1921, and in letters to the House committee September 1 and 10, 1921.

The occasion for the legislation grew out of the construction of section 7 of the act of March 3, 1891, and the ruling of the Supreme Court of the United States in *Lane v. Hoglund* (244 U. S. 175), certain entries having been canceled for failure to comply with the law, fraud, or for other reasons, and the lands entered and improved by others thereafter, and in many cases patents issued to the second

entrymen prior to the decision of the Supreme Court above noted. Under that decision, if proceedings were not instituted within two years from date of final proof, the entry was held to be confirmed, and the subsequent cancellation by this department erroneous.

The result was that the original entrymen in some cases brought suits to have the second entrymen declared trustees for them. The department therefore felt that some relief should be afforded those innocent parties, and report was so made on S. 1099.

In presenting the matter on the floor of the House, it was stated that there were some 40 or 50 cases of the kind in the department awaiting adjustment. The department was led to believe that there were comparatively few of such cases, and that equity demanded the enactment of some such legislation.

It now transpires that in addition to the equitable cases which occasioned the legislation, parties are searching the records and acquiring claims from parties and their heirs in cases of timber-culture and other entries canceled from 15 to 23 years ago, and making lieu or scrip selection for other lands, ostensibly in the interest of the original entrymen or their heirs, but quite probably for the benefit of clients or transferees of those who are instigating the filing of the claims. In other words, the act is apparently being made a vehicle of lieu selections somewhat as was the forest lieu act of June 4, 1897, which was repealed by Congress March 3, 1905 (33 Stat. 1264).

It is the opinion of the department that all equitable claims have had opportunity for presentation under said act of January 27, 1922, and that the act is now being used for a purpose not contemplated by this department or by Congress when the law was enacted; that the same reasons which moved Congress to repeal the forest lieu selection act should warrant the repeal of this act.

Sincerely yours,

HUBERT WORK, *Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, January 20, 1925.

Hon. E. F. LADD,

*Chairman Committee on Public Lands and Surveys,
United States Senate.*

MY DEAR SENATOR LADD: Referring to request of committee that Mr. F. W. Clements, representing certain land claimants, and the department agree on amendment to bill to repeal the act approved January 27, 1922 (S. 3839), I transmit herewith an amended form of bill to which Mr. Clements has agreed and to which this department will interpose no objection if the committee feels that the original bill should be amended.

Sincerely yours,

E. C. FINNEY,
First Assistant Secretary.